

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GS HOLISTIC, LLC,
Plaintiff,

v.

SANTA RITA SMOKE SHOP, et al.,
Defendants.

Case No. 23-cv-00752-NC

**ORDER TO SHOW CAUSE RE
BUSINESS STATUS OF NAMED
DEFENDANTS**

Re: ECF 12, 39

Before this Court issues a report and recommendation to a District Judge on plaintiff GS Holistic's motion for default judgment, ECF 39, it seeks clarity on exactly whom GS is suing. The named defendants in GS's amended complaint are (1) Kamal Frej doing business as Santa Rita Smoke Shop and (2) Kamal Frej. ECF 12. However, throughout the complaint and motion for default judgment, GS refers to Santa Rita Smoke Shop as an incorporated entity. *See, e.g.*, ECF 12 ¶ 6 ("KAMAL FREJ d/b/a SANTA RITA SMOKE SHOP . . . is a company/corporation that is incorporated in California."); ECF 39 at 12 ("Defendant, KAMAL FREJ d/b/a SANTA RITA SMOKE SHOP, is incorporated in and has its principal place of business in California."). Based on this Court's review of GS's filings, it does not appear GS has filed any exhibits evidencing a defendant incorporated in California. More crucially, liability for a fictitiously named business and corporation fundamentally differ. *Compare 65 C.J.S. Names § 14* ("Doing business under a fictitious name does not create an entity distinct or separate from the person or entity operating the business, and an undertaking by an individual in a fictitious name is the obligation of the individual.") *with NTD Architects v. Baker*, 950 F. Supp. 2d 1151, 1158 (S.D. Cal. 2013) ("Although directors and officers of a corporation do not incur personal liability for torts of the corporation merely by reason of their official position, they can be held personally liable if they participate in the wrong or authorize or direct that it be done.").

1 In short, this Court cannot make an effective recommendation on GS's motion for
2 default judgment without knowing whom GS seeks default judgment against. GS is
3 ordered to file a supplement brief of no more than 2 pages that clarifies the legal status of
4 the defendants by April 12, 2024.

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6 **IT IS SO ORDERED.**

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8 Dated: April 4, 2024



NATHANAEL M. COUSINS
United States Magistrate Judge

United States District Court
Northern District of California